

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Advanced Television Systems
And Their Impact Upon The
Existing Television Broadcast
Service

MM Docket No. 87-268

To: The Commission:

PETITION FOR PARTIAL RECONSIDERATION

The Mississippi Authority for Educational Television (MAET), through its attorneys, hereby files this Petition for Partial Reconsideration of the Memorandum Opinion and Order on reconsideration of the Fifth Report and Order (Memo O & O I), and the Memorandum Opinion and Order on reconsideration of the Sixth Report and Order (Memo O & O II) in the above-captioned DTV proceedings. In support thereof, the following is shown:

1. MAET is the licensee of flagship public television Station WMPN-TV. Jackson, Mississippi and seven public television satellite stations (WMAB-TV, Mississippi State; WMAE-TV, Booneville; WMAH-TV, Biloxi; WMAO-TV, Greenwood; WMAU-TV, Bude; WMAV-TV, Oxford, and WMAW-TV, Meridian, Mississippi). These stations comprise the eight station MAET statewide public television network.

2. In order to complement its statewide public television service, MAET has filed seven applications for new public television stations on reserved channels. Two applications were filed on July 24, 1996 to change from existing TV translator service to public television satellite service on Channel 47 at Hattiesburg and on Channel 45 at Columbia, Mississippi. In addition, on September 19, 1996, MAET filed applications for

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new public television satellite stations at Natchez, Columbus, Cleveland, Yazoo City and Clarksdale, Mississippi. In its Petition for Reconsideration in this proceeding, MAET sought confirmation of the protection of these seven pending applications for new public television stations on reserved channels.

3. In its reconsideration decision concerning the Sixth Report and Order (Memo O & O II, par. 574), the Commission stated that four MAET applications had been protected (Channel 43, Columbus; Channel 31, Cleveland; Channel 32, Yazoo City; and Channel 21, Clarksdale, Mississippi). However, "MAET's remaining three applications in Hattiesburg, Columbia, and Natchez were not protected because they were in areas where the Commission indicated that it would not accept new applications."

4. MAET requests reconsideration of the Commission's arbitrary and capricious action regarding the applications for Hattiesburg, Columbia and Natchez. The Commission has offered no reasoned analysis for its action. MAET is entitled to a full and rational explanation for the disparate treatment accorded MAET's applications at Hattiesburg, Columbia and Natchez, as distinguished from its actions regarding the applications at Columbus, Cleveland, Yazoo City and Clarksdale. Pursuant to the Commission's policy articulated in Memo O & O I, par. 11, all seven of MAET's applications for new public television satellite stations should be afforded "the choice to immediately construct either an analog or a digital station on the channel" they will be granted.

5. It is apparent, although not entirely clear, that the basis for the Commission's action with respect to the Hattiesburg, Columbia and Natchez proposals may be the application of its TV freeze policy, articulated in 1987 at the commencement of its

consideration of DTV technologies. Under that policy, the Commission instituted a freeze on applications for thirty markets and surrounding areas. Order, Advanced Television Systems, RM-5811, FCC Mimeo 4074, released July 17, 1987. However, the Commission specifically stated that it

will also consider waiver requests on a case-by-case basis for non-commercial educational channels, or for applicants which provide compelling reasons why this freeze should not apply to their particular situations or class of stations.

5. With respect to all of its applications for new public television stations, including its applications for new stations at Hattiesburg, Columbia and Natchez, MAET included an extensive request for waiver of the TV freeze rule. With regard to the three proposals, MAET stressed that the respective channels had been reserved for noncommercial educational purposes for many years. The proposed usage in each community confirmed and assured this noncommercial educational usage. MAET proposed operation on a satellite basis so that it would have no appreciable effect upon the Commission's DTV deliberations. Accordingly, MAET stressed that the processing of these applications would further the Commission's policies advancing noncommercial educational television usage of allotted reserved channels without adverse impact upon Commission DTV concerns. With respect to Hattiesburg and Columbia, where MAET has sought public television satellite operations instead of TV translator operations, MAET submitted that the proposed operations at Hattiesburg and Columbia were totally consistent with its public broadcast mandate for the State of Mississippi. In light of inherent technical and funding limitations, the proposed stations were the most efficient means for providing these areas with high quality noncommercial educational programming on a primary rather than a secondary basis.

6. All three applications outlined the special statutory responsibilities set forth in MAET's enabling legislation to offer an economic, efficient and effective public television (and public radio) service of benefit to all of the people of the State. The proposals for Hattiesburg, Columbia and Natchez underscored the relative small size of the communities involved and the geographic isolation of the regions served. MAET urged that a grant of the three applications would substantially enhance MAET's ability to serve Mississippians and to extend and expand its public television program service to new areas and populations of the State. As such, MAET's waiver requests demonstrated "compelling reasons" why the freeze should not apply to these applications "for non-commercial educational channels."

7. The Commission does not even advert to MAET's requests for waiver of the TV freeze nor does it address any of the substantive matters or special circumstances set forth above, which have been taken from the exhibits appended to MAET's various applications. The Commission's action is totally conclusory in nature. MAET is entitled to a fair and objective assessment of its waiver request. In its 1987 TV freeze policy Order, the Commission encouraged waiver requests "for noncommercial educational channels" and for applicants providing "compelling reasons" for waiver. MAET's requests fall clearly within this classification and deserve sympathetic consideration by the Commission. Accordingly, MAET urges the Commission upon reconsideration to review with care the showing set forth in these three applications by MAET in support of waiver of the TV freeze and to protect these applications at Hattiesburg, Columbia and Natchez.

WHEREFORE, for all of the foregoing reasons, the Commission should reconsider and grant relief in the respects described above.

Respectfully submitted,

MISSISSIPPI AUTHORITY FOR
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